

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

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DERRICK JACQUAY ROBERSON-EL,

Civil No. 09-3693 (JNE/AJB)

Plaintiff,

v.

**REPORT AND RECOMMENDATION**

MINNESOTA DEPARTMENT OF  
CORRECTION, KEITH CRAFT (Prison  
Employee), WARDEN OF MCF-SAINT  
CLOUD, ASST COUNTY ATTORNEY,  
JOHN DOE, and JANE DOE (Prison  
Employees),

Defendants.

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This matter is presently before the Court for the purpose of determining whether Plaintiff has complied with the requirements of the Court's previous order dated March 24, 2010. (Docket No. 9.) That order directed Plaintiff to file one properly completed U.S. Marshal service form, (USM-285), for each Defendant to be served in this matter. Plaintiff was advised that the Marshal would not be able to serve the named Defendants, and that this case could not go forward, unless he filed the requisite marshal service forms. The order also expressly advised Plaintiff that if he did not submit his marshal service forms by April 16, 2010, he would be deemed to have abandoned this action, and it would be recommended that the action be summarily dismissed for lack of prosecution.

The deadline for complying with the order of March 24, 2010, has now expired. However, Plaintiff has not yet submitted the required marshal service forms, nor has he offered any explanation for his failure to do so. Indeed, Plaintiff has not communicated with the Court at all since he was ordered to submit his marshal service forms.

Therefore, based on the express warning regarding the consequences that would follow if Plaintiff failed to comply with the Court's prior order, it is now recommended that Plaintiff be deemed to have abandoned this action, and that the action be dismissed, without prejudice, for failure to prosecute. See Fed. R. Civ. P. 41(b) (actions may be dismissed for failure to comply with court orders). See also Henderson v. Renaissance Grand Hotel, 267 Fed.Appx. 496, 497 (8<sup>th</sup> Cir. 2008) (unpublished opinion) ("[a] district court has discretion to dismiss an action under Rule 41(b) for a plaintiff's failure to prosecute, or to comply with the Federal Rules of Civil Procedure or any court order"); Link v. Wabash Railroad Co., 370 U.S. 626, 630-31 (1962) (recognizing that a federal court has the inherent authority to "manage [its] own affairs so as to achieve the orderly and expeditious disposition of cases").<sup>1</sup>

Based upon the above, and upon all the records and proceedings herein,

IT IS HEREBY RECOMMENDED that:

This action be **DISMISSED WITHOUT PREJUDICE**.

Dated: April 20, 2010

s/Arthur J. Boylan  
ARTHUR J. BOYLAN  
United States Magistrate Judge

Pursuant to Local Rule 72.2(b), any party may object to this Report and Recommendation by filing with the Clerk of Court, and by serving upon all parties, written objections which specifically identify the portions of the Report to which objections are made and the bases for each objection. This Report and Recommendation does not constitute an order or judgment from the District Court and it is therefore not directly appealable to the Circuit Court of Appeals. Written objections must be filed with the Court before May 5, 2010.

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<sup>1</sup> Plaintiff's copy of the order of March 24, 2010, was returned to the Clerk's Office, apparently because he is no longer residing at the address he provided when he commenced this action. Plaintiff's failure to keep the Court apprised of his current whereabouts reinforces the Court's determination that he has abandoned this action.